

House Resolution 49 - Introduced

HOUSE RESOLUTION NO. 49

BY SHAW, ALONS, DE BOEF, MASSIE, and PEARSON

1 A Resolution impeaching Supreme Court Justice Daryl L.
2 Hecht for malfeasance in office.

3 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES,
4 That Supreme Court Justice Daryl L. Hecht is impeached
5 for malfeasance in office, and that the following
6 article of impeachment be exhibited and presented to
7 the Senate:

8 That Supreme Court Justice Daryl L. Hecht in
9 violation of his constitutional oath undertaken before
10 taking office to support the Constitution of the United
11 States and the Constitution of the State of Iowa, has
12 committed malfeasance in office through his action to
13 sanction marriage between persons of the same sex in
14 the Varnum v. Brien, 763 N.W.2d 862 (Iowa 2009), ruling
15 issued on April 3, 2009, by the following conduct:

16 ARTICLE I

17 By unconstitutionally exercising functions properly
18 belonging to the legislative and executive departments
19 as follows:

20 (1) By his action in the Varnum case, Justice Hecht
21 improperly assumed the function and role of an elected
22 legislator by ordering that the language in Iowa Code
23 section 595.2 limiting civil marriage to a man and a
24 woman must be stricken from the statute as enacted by
25 the legislative department and approved by the governor
26 of the executive department in 1998.

27 (2) By his action in the Varnum case, Justice Hecht
28 knowingly and intentionally usurped the proper function

1 delegated solely and exclusively to the legislative
2 department of declaring public policy, through his
3 judicial declaration of a new public policy contrary to
4 long-standing public policy acknowledged by society and
5 established in Iowa Code section 595.2, subsection 1.

6 (3) By his action in the Varnum case, Justice Hecht
7 has improperly required the executive department to
8 issue marriage licenses to parties of the same sex in
9 direct contravention of Iowa Code section 595.2.

10 (4) By his action in the Varnum case, Justice Hecht
11 has created a constitutional crisis regarding the
12 enforcement of the Varnum ruling by allowing different
13 interpretations of the definition of marriage to
14 exist indefinitely within the separate departments of
15 government, leaving the people with no immediate remedy
16 to address this crisis.

17 (5) By his action in the Varnum case, Justice
18 Hecht has created a constitutional imbalance and
19 confusion within the State of Iowa as to the proper
20 constitutional function of each department, thus
21 undermining the integrity of the tripartite separation
22 of powers among the departments and creating social
23 disorder and unrest.

24 BE IT FURTHER RESOLVED BY THE HOUSE, That the
25 conduct of Supreme Court Justice Daryl L. Hecht, in
26 committing malfeasance in office, warrants impeachment,
27 trial by the Senate, and removal and disqualification
28 from any office of honor, trust, or profit under the
29 state pursuant to the procedures set out in Iowa Code
30 chapter 68.